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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/775,990	02/11/2004	Michael Doctoroff	D.1638	1314
3574	7590	08/19/2005	EXAMINER	
JOHN E. TOUPAL 116 CONCORD STREET FRAMINGHAM, MA 01701			GREEN, BRIAN	
			ART UNIT	PAPER NUMBER
			3611	
DATE MAILED: 08/19/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/775,990

Applicant(s)

DOCTOROFF, MICHAEL

Examiner

Brian K. Green

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 15 June 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 June 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Drawings***

The drawing filed on June 15, 2005 has not been approved since it is non-compliant with 37 CFR 1.121. The applicant failed to label the drawing sheet in the top margin "Replacement Sheet" as required. Any replacement drawing sheet must be identified in the top margin as "Replacement Sheet". Any marked-up (annotated) copy showing changes must be labeled "Annotated Marked-up Drawings" and accompany the replacement sheet in the amendment.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1,7,11, and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Kenney (U.S. Patent No. 6,151,822).

Kenney shows in figures 1-3 a frame comprising:  
a first sheet member (11) having a transparent top wall portion having an inner top wall surface and an outer planar top wall surface defined by connected edges, and a top side wall portion (22,22,24) aligned with each of said connected edges other than a particular one (top edge) thereof; said side wall portions extending outwardly from said inner top wall surface; and a second sheet member (12) including a bottom wall portion having an inner bottom wall surface and an outer planar bottom wall surface defined by joined edges extending parallel to said connected edges, and a bottom sidewall portion (22,22,24) extending

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outwardly from said inner bottom wall surface and disposed substantially parallel to and inwardly laterally adjacent to each of said top side wall portions so as to form between said inner top wall surface and said inner bottom wall surface a substantially closed cavity accessible through an opening adjacent to said particular connected edge. In regard to claims 7 and 17, the attachment mechanism is considered to be the glue or welding, see column 2, lines 48-50. In regard to claim 11, Kenney shows in figure 1 that the top wall portion is rectangular.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goserud (U.S. Design Patent No. 447,052) in view of Harwell et al. (U.S. Patent No. 6,295,750).

Goserud shows in figures 6-8 a frame comprising:  
a first sheet member (the upper planar sheet in figure 7) having a transparent top wall portion having an inner top wall surface and an outer top wall surface defined by connected edges, and a second sheet member (the lower planar sheet in figure 7) including a bottom wall portion having an inner portion wall surface and an outer bottom wall surface defined by joined edges extending parallel to said connected edges, and between said inner top wall surface and said inner bottom wall surface a substantially closed cavity accessible through an opening adjacent to the upper edge. Goserud shows a spacer used to connect the first sheet member to the second

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sheet member. Goserud does not disclose attaching top wall portions to the first sheet member and bottom wall portions to the second sheet member. Harwell et al. shows in figures 1-3 a first sheet member (13) that includes top wall portions (23) and a second sheet member (15) that includes bottom wall portions (the flanges of 15 that directly engage the wall portions 23 of the first sheet member, see figure 3). In view of the teachings of Harwell et al. it would have been obvious to one in the art to modify Goserud by attaching top wall portions to the first sheet member and bottom wall portions to the second sheet member since this would allow the first and second sheet members to be attached together in an easier and more secure manner and would help to prevent the outer surfaces of the shell parts from being scratched and would allow a plurality of the holders to be stacked together as taught by Harwell et al. column 2, lines 62-67 and column 3, lines 1-5. In regard to claims 2-5,7,8,12-15,17, and 18, Harwell et al. shows in figure 3 that the external surfaces of the bottom side wall portions engage the internal surfaces of the top side wall portions and the outer edges of the bottom side wall portions engage the inner top wall surfaces and Harwell et al. discloses in column 4, lines 43-45 the idea of welding the wall portions together. In regard to claims 6,9,16, and 19, Harwell et al. shows in figure 3 that the total width of the second sheet member between outer edges of the bottom side wall portions and the outer bottom wall surface is substantially equal to a uniform length of the top side wall portions. In regard to claim 10, Goserud does not disclose whether the total thickness of the frame between the outer top wall and the outer bottom wall surface is less than .06 inches. It would have been an obvious matter of design to one having ordinary skill in the art to make the total thickness of Goserud less than .06 inches since where the only difference between the prior art and the claims is a recitation of relative dimensions of the claimed device and a device having

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the claimed relative dimensions would not perform differently than the prior art device, the claimed device is not patentably distinct from the prior art device, see MPEP 2144.04, IV., A and the court citing contained therein. In regard to claim 11, Goserud shows in figure 6 that the top wall portion is rectangular. In regard to claims 20 and 21, Harwell et al. shows in figures 1-3 that the width of the first sheet member would be as defined in claim 20 and the length of the first sheet member would be as defined in claim 21.

### *Response to Arguments*

Applicant's arguments filed June 15, 2005 have been fully considered but they are not persuasive.

The applicant argues that the transparent pieces of Kelly fail to include planar outer surfaces since each of the pieces include base portion 16 projecting outwardly from its outer surface. The examiner disagrees since Kenney shows in figures 1 and 3 that the outer surfaces (the vertical surfaces of panels 11 and 12) of panels 11 and 12 are planar.

The applicant argues that Goserud in view of Harwell et al. would not anticipate amended claim 1 since the outwardly directed flanges 25 and 30 of Harwell when placed on the first and second sheet members would no longer include planar outer surface as now recited in claims 1-21. The examiner disagrees since the first and sheet members of Goserud, after being modified in view of Harwell et al., would still include an outer planar top wall surface (the majority of the outer surface of the first sheet member) and an outer planar bottom wall surface (the majority of the outer surface of the second sheet member). The entire first and second sheets do not have to

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be planar as suggested by the applicant. The first and second sheets simply need to include outer planar surfaces.

*Conclusion*

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian K. Green whose telephone number is (571) 272-6644. The examiner can normally be reached on M-F 7am-3:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on (571) 272-6651. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
BRIAN K. GREEN  
PRIMARY EXAMINER

Bkg  
Aug. 17, 2005